

REMARKS

Summary Of The Office Action & Formalities

Status of Claims

Claims 1-6 and 14-21 are all the claims pending in the application. Claims 7-12 are withdrawn from further consideration.

Additional Fees

Submitted herewith is a Petition for Extension of Time with fee.

Art Rejections

Claims 1-6 and 14-21 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Roccia (US 5,676,129) in view of Claassen (US 4,194,401).

Applicant respectfully traverses.

Claim Rejections - 35 U.S.C. § 103

Claims 1-6 and 14-21 Over Roccia (US 5,676,129) in view of Claassen (US 4,194,401).

In rejecting claims 1-6 and 14-21 over Roccia (US 5,676,129) in view of Claassen (US 4,194,401), the grounds of rejection state:

Regarding claims 1-3, 18-21, Roccia discloses a fluid dispensing device including a fluid dispensing member in the form of a metering valve (3) that is pumped in order to dispense medicament and a dispensing head (10) with a dispensing orifice (11) connected by an expulsion channel (7), within the channel is a dynamic pressure sensing detector (12) (Abstract) (column 5, lines 14-20) (fig. 3) used to send a signal to the user whenever a dose of fluid has been dispensed (column 3, lines 65-67). Roccia does not disclose the sensor comprising a piezoelectric material and the detector means being disposed in a sleeve co-operating at one end with the dispenser member and at the other end with the dispenser head. Claassen discloses a sensor comprising a piezoelectric material (6) that is disposed in a sleeve (4) and placed around channel (1) (fig. 1). It would have been obvious to one of ordinary skill in the art at the time of the invention to replace the dispensing

detector of Rocci with the sleeve piezoelectric detector around a channel as taught by [Claassen] as an obvious equivalent alternative means for detecting the presence of fluid.

Office Action at pages 2-3. Applicant disagrees.

Claim 1 recites, *inter alia*, that the “detector means are disposed in a sleeve co-operating at one end with said dispenser member and at the other end with said dispenser head.”

The grounds of rejection acknowledge that “Rocci does not disclose the sensor comprising a piezoelectric material and the detector means being disposed in a sleeve co-operating at one end with the dispenser member and at the other end with the dispenser head.”

Office Action at page 2. However, the Examiner’s position is that modifying the device of Rocci to include this feature would have been obvious in view of Claassen. The rationale given by the Examiner in support of this position is that “[i]t would have been obvious . . . to replace the dispensing detector of Rocci with the sleeve piezoelectric detector around a channel as taught by [Claassen] as an obvious equivalent alternative means for detecting the presence of fluid.”

Office Action at pages 2-3 (emphasis added).

Even, assuming for the sake of argument, that one skilled in the art would have found it obvious to modify the device of Rocci to include the transducer for measuring the internal pressure of pipes of Claassen, the resulting structure would not include the “detector means [that] are disposed in a sleeve co-operating at one end with said dispenser member and at the other end with said dispenser head.”

Specifically, Claassen makes no mention or disclosure of the claimed detector disposed in a sleeve co-operating at one end with a dispenser member and at the other end with a dispenser head.. Rather, Claassen merely discloses a housing extending laterally to a pipe (see col. 4, l. 47). One skilled in the art reviewing Claassen would take away no more.

Thus, even if one skilled in the art would have considered Rocci together with Claassen, that person would have been led to *replace* the detector of Rocci, which co-operates *exclusively with the dispenser head*, by a similar detector as disclosed by Claassen, *also exclusively co-operating with a pipe-shaped part of the dispenser head*. There is no disclosure in either Rocci or Claassen supporting any rationale for further modifying Rocci in some fashion to have a detector disposed in a sleeve co-operating at one end with the dispenser member and at the other end with the dispenser head. Rather, if anything, Rocci would have led one to have the detector co-operate *exclusively with the dispenser head*. Thus, even if, as stated in the grounds of rejection, the detector of Claassen were an “obvious equivalent alternative means for detecting the presence of fluid” as that in Rocci, the replacement of one detector with the other would still not result in the claimed subject matter.

Further, as explained in the specification, the claimed structure of the sleeve of the present invention allows, in particular, a simplified assembly and leak tightness (see p. 5, ll. 30-31).

Claim 21 recites, *inter alia*, that “the detector is disposed in a sleeve connected at one end with the dispenser member and at the other end with the dispenser head.” Again, as explained above, Rocci and Claassen, considered individually or together, would not have rendered this feature obvious.

In view of at least the foregoing, the Examiner is kindly requested to reconsider and withdraw the rejection of claims 1 and 21 and claims dependent therefrom.

In rejecting claims 14 and 15, the grounds of rejection state:

Regarding claim 14, the combination of Rocci and Classen disclose the claimed invention wherein Classen discloses the

sleeve being made of two part (2, 3) that engage around the detector mean (6) (fig. 1).

Regarding claim 15, the combination of Rocci and Claassen disclose the claimed invention wherein the sleeve would be engaged around the valve member.

Office Action at page 3. Applicant respectfully disagrees.

In Claassen, while the housing is made of two parts (housing parts 2 and 3), the sensor element 6 is not disposed between these two parts, but between the pipe and the housing (*see col. 4, ll. 12-16*).

Furthermore, there is no indication in Rocci that the detector even could be arranged around the valve member instead of being in the dispenser head, and Claassen makes no disclosure of any such valve member.

Accordingly, claims 14 and 15 are believed to be allowable for these reasons as well.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



Raja N. Saliba
Registration No. 43,078

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE

23373

CUSTOMER NUMBER

Date: April 30, 2010